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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE201

Notice of Availability of the *Deepwater Horizon* Oil Spill Texas Trustee Implementation Group Final 2017 Restoration Plan and Finding of No Significant Impact

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP), entered in: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, MDL No. 2179 in the United States District Court for the Eastern District of Louisiana, the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Texas Trustee Implementation Group (Texas TIG) have prepared the Final 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters (Final RP/EA). The Final RP/EA describes and, in conjunction with the associated Finding of No Significant Impact (FONSI), selects 13 preferred alternatives considered by the Texas TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Texas TIG evaluated alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The selected projects are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill: Final

Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The Federal Trustees of the Texas TIG have determined that implementation of the Final RP/EA is not a major Federal Action significantly affecting the quality of the human environment within the context of NEPA. They have concluded a FONSI is appropriate, and, therefore, an Environmental Impact Statement will not be prepared. The purpose of this notice is to inform the public of the approval and availability of the Final RP/EA and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Final RP/EA and FONSI at <http://www.gulfspillrestoration.noaa.gov>. Alternatively, you may request a CD of the Final RP/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**). In addition, you may view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

- National Oceanic and Atmospheric Administration – Jamie Schubert,
Jamie.Schubert@noaa.gov, 409-621-1248;
- Texas Parks and Wildlife Department – Don Pitts, *Don.Pitts@tpwd.texas.gov, 512-389-8754.*

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the

seabed. The *Deepwater Horizon* oil spill is the largest maritime oil spill in United States history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas also was released to the environment as a result of the spill.

The *Deepwater Horizon* Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;

- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;

- State of Mississippi Department of Environmental Quality;

- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;

- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and

- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damages claims with BP in a Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Texas Restoration Area are now chosen and managed by the Texas TIG. The Texas TIG is comprised of the following DWH Trustees:

- Texas Parks and Wildlife Department;

- Texas General Land Office;

- Texas Commission on Environmental Quality;

- U.S. Department of the Interior, as represented by National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;

- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;

- U.S. Department of Agriculture; and

- U.S. Environmental Protection Agency.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Types considered in the Final RP/EA, as well as the OPA criteria against which project ideas were evaluated, can be viewed in the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>) and in the Overview of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>).

Background

On July 6, 2016, the Texas TIG posted a public notice at <http://www.gulfspillrestoration.noaa.gov> requesting new or revised proposals by August 31, 2016, regarding natural resource restoration in the Texas Restoration Area for the 2016–2017 planning years. The notice stated that the Texas TIG is prioritizing restoration planning efforts on Restoration Types that were not addressed previously by Early Restoration: 1) restore and conserve wetland, coastal, and nearshore habitats; 2) restore water quality through nutrient reduction (nonpoint source); and 3) replenish and protect oysters.

A Notice of Availability of the *Deepwater Horizon* Oil Spill Texas Trustee Implementation Group Draft 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters (Draft RP/EA) was published in the *Federal Register* on May 18, with a correction published on June 1, 2017. The Draft RP/EA proposed 13 restoration project alternatives consistent with the Restoration Types selected in the PDARP/PEIS. The Texas TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The Texas TIG provided the public with 33 days to review and provide comment on the Draft RP/EA. During the public review

period, which ended on June 19, 2017, the Texas TIG held two public meetings in Corpus Christi (June 7, 2017) and La Marque (June 8, 2017). The Texas TIG considered the public comments received, which informed the Texas TIG's analyses and selection of the restoration projects in the Final RP/EA. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 7 of the Final RP/EA.

Overview of the Final RP/EA

The Final RP/EA is being released in accordance with OPA, the OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

In the Final RP/EA, the Texas TIG selects as its preferred alternatives for the following Restoration Types: (1) wetland, coastal, and nearshore habitats; and (2) oysters. For the water quality (nonpoint source) Restoration Type, the Texas TIG has determined additional restoration planning is necessary, and does not propose or select any restoration projects in this RP/EA.

For wetland, coastal, and nearshore habitats, the Final RP/EA selects the following preferred project alternatives:

- Bird Island Cove Habitat Restoration Engineering,
- Essex Bayou Habitat Restoration Engineering,
- Dredged Material Planning for Wetland Restoration,
- McFaddin Beach and Dune Restoration,
- Bessie Heights Wetland Restoration,
- Pierce Marsh Wetland Restoration,
- Indian Point Shoreline Erosion Protection,
- Bahia Grande Hydrologic Restoration,

- Follets Island Habitat Acquisition,
- Mid-Coast Habitat Acquisition,
- Bahia Grande Coastal Corridor Habitat Acquisition, and
- Laguna Atascosa Habitat Acquisition.

For oysters, the Final RP/EA selects Oyster Restoration Engineering as the preferred project alternative.

The Texas TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In the Final RP/EA, the Texas TIG presents to the public its plan for providing partial compensation to the public for injured natural resources and ecological services in the Texas Restoration Area. The selected projects are intended to continue the process of restoring natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost of the selected projects is \$45,761,000. Additional restoration planning for the Texas Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Final RP/EA and FONSI can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority for this action is OPA (33 U.S.C. 2701 *et seq.*) and the OPA NRDA regulations at 15 CFR part 990.

Dated: October 13, 2017.

Christopher Meaney,
Acting Deputy Director,
Office of Habitat Conservation,
National Marine Fisheries Service.

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